

REMARKS

The arguments concerning the allowability of claims 32-44 and 53-55, presented in the Amendment mailed July 19, 2004, are repeated and fully incorporated herein by reference. With regard to claim 56-61, claim 56 is a method claim requiring the steps of: (a) directing a gas from a source into a chamber; (b) humidifying the gas within the chamber with a humidifying solution; (c) treating the gas by mixing at least one agent, other than air or water, with the gas; (d) sensing the humidity of the gas after treatment; (e) monitoring the humidity of the gas; and (f) detecting when the humidity of the gas is below a predetermined level. Claim 56 is allowable over Bartels, et al., US Patent No. 4,621,632; Bell, US Patent No. 6,039,696 and Ott, et al., US Patent No. 5,411,474, or any combination thereof, for at least the reason that neither Bartels, et al., Bell, or Ott, et al., or any combination thereof, disclose or suggest in any fashion a method of providing for any selected period of time humidified and treated gas into a patient by other than inspiration or expiration for a medical procedure including the step of treating the gas by mixing at least one agent other than air or water with the gas. Since the Examiner has not shown a method having the steps of claim 56, the Examiner's rejection is improper and must be withdrawn.

Claim 57 is allowable for at least the reason that the Examiner has not shown a method having the steps of either treating the gas by mixing at least one agent other than air or water with the gas and generating a recharge signal when the humidity of the gas is below the predetermined desired level. Since the Examiner has not shown a method having all the steps of claim 57, the Examiner's objection is in error and should be withdrawn.

Claim 58 is allowable for at least the reason that the Examiner has not shown a method which involves treating the gas by mixing at least one agent other air or water with the gas where the at least one agent is a liquid phase agent.

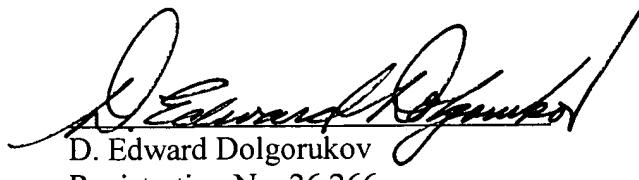
Claim 59 is allowable for at least the reason that the Examiner has not shown a method having the step of treating the gas by mixing at least one agent other than air or water with the gas where the at least one agent is a solid phase agent.

Claim 60 depends upon claim 32. Because the Examiner has not shown a method of providing for a selected period of time humidified gas into a patient having the steps of generating a recharge signal when the humidity of the gas in the chamber is below the predetermined humidity level, sensing the temperature of the gas as it exits the chamber, and controlling electrical power to the heating element so as to keep the temperature of the gas as it exits the chamber in the range of 35-45° C, claim 60 is allowable.

Claim 61 also depends on claim 32, and is allowable for at least the reasons that the Examiner has not shown a method as set forth in claim 32 and having the additional step of sensing the temperature of the gas as it exists the chamber and controlling electrical power to the heating element so as to keep the temperature of the gas as it exits the chamber at the physiologic temperature.

In view of the above amendments, and the remarks explanatory thereof, a favorable reconsideration of the present application, and the passing of this case to issue is courteously solicited.

Respectfully submitted,



D. Edward Dolgorukov  
Registration No. 26,266

ATTORNEYS

MARSHALL & MELHORN, LLC  
Four SeaGate, Eighth Floor  
Toledo, Ohio 43604  
(419) 249-7100  
(419) 249-7151 (Facsimile)